

Appl. No. : 09/720,493
Filed : September 27, 2001

REMARKS

Currently claims 1-9 and 11-26 are pending in the above-identified application. Claims 12-16 have been amended. Claims 18-26 have been added. Reconsideration of the application in view of the amendments and additional claims, as well as the following comments is respectfully requested.

In an Office Action mailed October 10, 2003, the Examiner stated that original Claims 1-9, 11, 16, and 17 are patentable over the prior art of record. The Examiner also requested that Applicants add a new claim directed to the subject matter of deleted Claim 10 as the Examiner found the subject matter of Claim 10 also patentable over the prior art of record. The Examiner rejected Claims 12-15 under 35 U.S.C. §112, ¶2 as indefinite for various specific reasons also. The Examiner also objected to an informality in the specification, namely the recitation of a website address.

Allowable Subject Matter of Claim 18

Claim 10 had been cancelled without prejudice as drawn to a non-elected invention in response to the June 26, 2003 Office Action which included a restriction requirement. In the October 10, 2003 Office Action, the Examiner requested that Applicants add a new claim directed to the subject matter of deleted Claim 10 as the Examiner had searched the full scope of independent Claim 1 including antibodies in which the antibody carries a label selected from the group consisting of a detectable label and a functional label. The Examiner found the subject matter of Claim 10 patentable over the prior art of record. In response to these comments, Applicants have added a duplicate of cancelled Claim 10 as new Claim 18. Applicants respectfully submit that Claim 18 does not constitute new matter and is fully supported by, for example, original Claim 10.

Claims 19-26, dependent from new Claim 18, have also been added. These claims find support throughout the specification, for example, at page 15, lines 10-24. Applicants respectfully submit that these claims are in condition for allowance.

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Claims 12-15 As Amended Are Definite Under 35 U.S.C. §112 , ¶2

Claim 12 has been amended in response to the Examiner's indefiniteness rejection. The step of expressing a nucleic acid which comprises a sequence encoding a specific binding member as defined in Claim 1 necessarily requires that the method proceed under applicable conditions. Accordingly, removing the objected to language obviates the rejection and does not narrow the scope of the claim. Further, Applicants submit that the amendment finds support in the specification, does not constitute new matter, and renders the claim allowable.

Claim 13 has been amended in response to the Examiner's indefiniteness rejections. Support for the claim amendment may be found throughout the original specification, for example, at pages 4-5, lines 33-35 and 1-2 as well as page 15, lines 26-32. Applicants submit that this amendment renders the claim allowable and does not narrow the scope of the Claim.

Applicants respectfully thank the Examiner for pointing out the typographical error found in Claims 14 and 15. These claims clearly refer to a nucleic acid encoding an amino acid sequence, namely SEQ. ID NO: 2. Accordingly, the claims have been amended to change the reference in sections 14(b) and 15(b) from SEQ. ID NO: 1 to SEQ. ID NO: 2. Support for this amendment is found throughout the original specification, for example, at page 3, lines 15-19 and pages 17-18, 1-2 and lines 30-35. As is clear from the context of the amendments, these amendments do not narrow the scope of the claim. Applicants submit that these amendments render the claims allowable.

Claims 14-16

Claims 14-16 have been amended to conform the spelling of "tumour" with the United States spelling of the term as "tumor."

Specification

The specification has been amended to remove the objected to recitation of a website address. Applicants respectfully submits that this amendment obviates the Examiner's objection.

References

Applicants note that the Examiner did not initial next to the listing for U.S. Patent No. 5,019,368 to Epstein et al. on form PTO-1449. Applicants respectfully request that the Examiner

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initial next to the listing for U.S. Patent No. 5,019,368 if appropriate, to indicate that the Examiner has reviewed this patent.

Conclusion

In view of the foregoing amendments and comments, it is respectfully submitted that the present application is fully in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, Examiner is cordially invited to contact the undersigned so that any such matters may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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